

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CHARLES WARREN GRISSOM,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:04CV1292 HEA
)	
AL LEUBBERS,)	
)	
Respondent.)	

ORDER

This matter is before the Court on the petition of Missouri State prisoner, Charles Warren Grissom, for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court referred this matter to United States Magistrate Judge David D. Noce for a report and recommendation on all pretrial matters pursuant to 28 U.S.C. § 636(b). On January 11, 2007, Judge Noce filed his Report and Recommendation that the petition for habeas corpus relief be denied. The Court mailed a copy of the Report and Recommendation to Petitioner on January 11, 2007. This copy was returned undeliverable. The Court remailed the Report and Recommendation to the address noted on the returned envelope on January 19, 2007. To date, no objections to the recommendation have been filed by either party.

After careful consideration, the Court will adopt and sustain the sound and thorough reasoning of Judge Noce as set forth in his Report and Recommendation.

Certificate of Appealability

To grant a certificate of appealability, a federal habeas court must find a substantial showing of the denial of a federal constitutional right. See 28 U.S.C. § 2253(c)(2); *Hunter v. Bowersox*, 172 F.3d 1016, 1020 (8th Cir. 1999). A substantial showing is established if the issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings. See *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997)(citing *Flieger v. Delo*, 16 F.3d 878, 882-83 (8th Cir. 1994)); *Tokar v. Bowersox*, 1 F. Supp.2d 986, 1016 (E.D. Mo. 1998). In this case, petitioner has failed to make a substantial showing of the denial of a constitutional right. The undersigned is not persuaded that the issues raised in his petition are debatable among reasonable jurists, that a court could resolve the issues differently, or that the issues deserve further proceedings. The undersigned therefore will not issue a certificate of appealability.

Accordingly,

IT IS HEREBY ORDERED that the petition of Charles Warren Grissom for habeas corpus relief is denied;

IT IS FURTHER ORDERED that a Certificate of Appealability shall not

issue in this case.

Dated this 13th day of February, 2007.

A handwritten signature in dark ink, appearing to read "Henry Edward Autrey", with a long, sweeping horizontal line extending to the right.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE